

**STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the Matter of:**

**Martin Zehnder**

**Enforcement Case No. 10-7762**

**Respondent**

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Issued and entered  
On 8/15/10, 2010  
by Stephen R. Hilker  
Chief Deputy Commissioner

**ORDER TO CEASE AND DESIST**

The Office of Financial and Insurance Regulation (OFIR) of the Michigan Department of Labor & Economic Growth, pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*; the Michigan Insurance Code ("Code"), 1956 PA 218, as amended; MCL 500.100 *et seq.* (Code), and the rules promulgated under the Code, says that:

**I  
BACKGROUND**

1. At all times pertinent to the matter herein, Martin H. Zehnder (Respondent) was an officer and shareholder of Zehnder Chevrolet, Inc., a duly organized corporation in the State of Michigan. Zehnder Chevrolet, Inc. is located at 511 North Main Street, Frankenmuth, MI 48734. Zehnder Chevrolet, Inc. was previously known as Zehnder Chevrolet Buick, Inc. Zehnder Chevrolet Buick, Inc. filed with the Michigan Department of Energy, Labor & Economic Growth, Bureau of Commercial Services, a certificate of amendment to its articles of incorporation on April 30, 2008, amending its name to Zehnder Chevrolet, Inc.
2. At all times pertinent to the matter herein, Respondent was not licensed by OFIR as an insurance producer to conduct the business of insurance in the State of Michigan.
3. OFIR received information which indicates that Respondent is conducting transactions of insurance without a license as required by the Code. Specifically, Respondent is selling and soliciting insurance for limited lines credit insurance without a license under MCL 500.100 et seq.

4. On January 27, 2010, OFIR received a complaint from M.B alleging that on June 4, 2007, she completed an Arch Insurance Company GAP Insurance Policy Application for a 2007 Chevrolet Cobalt she purchased from Zehnder Chevrolet Buick, Inc.
5. The complainant provided OFIR with an installment sale contract which indicated that the complainant financed the premium payment for the GAP insurance policy in the amount of \$595. The complainant submitted the GAP Insurance Policy Application and premium payment to Respondent on June 4, 2007.
6. On or about October 2, 2009, M.B paid off the loan on her vehicle to which the GAP policy applied and subsequently contacted Arch Insurance Company (Arch) for a pro-rata refund pursuant to the terms of her GAP Insurance Policy. According to the GAP insurance policy, Ms. Bickel was entitled to a pro-rata refund if she paid off the loan early to which the GAP policy applied. Arch informed Ms. Bickel that it had searched its records and found no record of a policy sale or related premium for the vehicle she purchased from Zehnder Chevrolet Buick, Inc. on June 4, 2007.
7. M.B contacted Mr. Zehnder to inquire about a refund of her GAP premium and informed him that Arch indicated that she did not have GAP coverage because her application for GAP coverage was never submitted to Arch. Mr. Zehnder advised M.B that she did not have insurance coverage through Arch because her policy was self insured. Respondent subsequently issued refund checks to M.B in the amount of \$594.46. Before depositing the checks into her account for payment, M.B contacted the bank upon which the checks were drawn and found that Respondent did not have sufficient funds in the account to cover the checks.
8. On or about April 24, 2008, B.B completed an Arch Insurance Company GAP Insurance Policy Application for a 2005 Chevrolet Trailblazer she purchased from Zehnder Chevrolet Buick, Inc. Pursuant to the installment sale contract; B.B financed the premium payment in the amount of \$595 for the GAP insurance policy. B.B submitted the GAP Insurance Policy Application and premium payment to Respondent on April 24, 2008. Arch Insurance Company has no record of a policy sale or related premium for the vehicle B.B purchased from Zehnder Chevrolet Buick, Inc. on April 24, 2008.
9. On or about December 16, 2006, S.L completed an Arch Insurance Company GAP Insurance Policy Application for a 2007 Buick Rainer she purchased from Zehnder Chevrolet Buick, Inc. Pursuant to the installment sale contract; S.L financed the premium payment in the amount of \$595 for the GAP insurance policy. S.L submitted the GAP Insurance Policy Application and premium payment to Respondent on December 16, 2006. Arch Insurance Company has no record of a policy sale or related premium for the vehicle S.L purchased from Zehnder Chevrolet Buick, Inc. on December, 16, 2006.
10. On or about March 31, 2007, G.S completed an Arch Insurance Company GAP Insurance Policy Application for a 2007 Chevrolet Tahoe he purchased from Zehnder Chevrolet Buick, Inc. Pursuant to the installment sale contract G.S financed \$595 in premium payment in order to obtain the GAP policy. G.S submitted the GAP Insurance Policy

Application and premium payment to Respondent on March 31, 2008. Arch Insurance Company has no record of a policy sale or related premium for the vehicle G.S purchased from Zehnder Chevrolet Buick, Inc. on March 31, 2007.

## II CONCLUSIONS OF LAW

WHEREAS, Section 251 of the Code, MCL 500.251, states that in the reasonable exercise of discretion, the Commissioner may issue a cease and desist order if the Commissioner finds any of the following:

- (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
- (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
- (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the Commissioner is required by this act and the person has not received authority or given notification; and

WHEREAS, the Commissioner finds that a person must be licensed under Section 1201a of the Code in order to act as an insurance producer; and

WHEREAS, the records of OFIR disclose that Respondent is not licensed under Section 1201a of the Code to act as an insurance producer in the State of Michigan; and

WHEREAS, the Commissioner finds that by accepting applications and premium payments for a limited line credit insurance, Respondent is selling insurance in the State of Michigan; and

WHEREAS, The Commissioner finds that by soliciting customers to purchase GAP insurance Respondent is acting as an insurance producer; and

WHEREAS, the Commissioner finds that Respondent is violating Section 4503 of the Code by committing fraudulent insurance acts; and

WHEREAS, based on the foregoing, the Commissioner finds that Respondent is engaged in acts and practices that violate the Code; and

WHEREAS, the Commissioner finds this action necessary and appropriate in the public interest for the protection of the public and consistent with the purposes fairly intended by the policy and provisions of the Code.

IT IS THEREFORE ORDERED, pursuant to Section 251 of the Code, that Respondent shall immediately **CEASE AND DESIST** from violating Section 1201a of the Code by acting as an insurance producer in the State of Michigan.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondent shall immediately **CEASE AND DESIST** from violating Section 4503 of the Code by committing fraudulent insurance acts.

A person who violates or otherwise fails to comply with a cease and desist order is subject to a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the person was in violation of the order, payment of a civil fine of not more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00. The Commissioner may also recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

A person who is the subject of a cease and desist order may contest the order by requesting a hearing before the Commissioner not later than 30 days after the order is delivered or mailed to the person. Within 10 days after receiving the request, the Commissioner shall commence a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the Commissioner. Any request for a hearing should be addressed to: the Office of Financial and Insurance Services, Attention: Hearing Coordinator Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF ENERGY,  
LABOR AND ECONOMIC GROWTH

By: Stephen R. Hilker  
Stephen R. Hilker,  
Chief Deputy Commissioner  
Office of Financial and Insurance Regulation